## CCRB INVESTIGATIVE RECOMMENDATION

Investigator		Team:	CCRB Case #:	T Forman	Discount	☐ U.S.
Investigator:				✓ Force	_	_
Santosh Prakash		Squad #16	202100507	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:	•	Precinct	: 18 Mo. SOL	EO SOL
Friday, 01/22/2021 8:30 PM, F 01/22/2021 8:55 PM	riday,	§ 87(2)(b) Stationhouse	40th Precinct	40	7/22/2022	7/22/2022
Date/Time CV Reported		CV Reported At:	How CV Reported	l: Date/Ti	me Received at CC	RB
Sat, 01/23/2021 12:49 AM		CCRB	On-line website	Sat, 01/	/23/2021 12:49 AM	[
Complainant/Victim	Type	Home Addr	ess			
Witness(es)		Home Addr	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. Officers						
2. An officer						
3. DT3 Ruben Alvarez	02506	929624	NARCBBX			
4. DT3 Edgar Clases	01550	936360	NARCBBX			
Witness Officer(s)	Shield N	No Tax No	Cmd Name			
1. DT3 Massiel Pages	1435	953211	NARCBBX			
2. SGT Alberto Gonzalez	01636	941828	NARCBBX			
3. DT3 Ezequiel Martinez	1763	941069	NARCBBX			
4. POF Gabriela Navarro	10506	965363	PSA 7			
5. POM Andres Uribe	24649	964325	PSA 7			
6. CPT James Hynes	00000	922530	040 PCT			
7. SGT Seth Massey	04296	923453	WARRSEC			
8. POM Rafael Rispoli	12456	956201	SRG 2			
9. POM Bolivar Vasquez	11886	967712	PSA 7			
10. POM Michael Edwards	15523	960491	SRG 2			
11. POM Michael Arini	08535	963379	NARCBBX			
12. POM Daniel Oh	02508	953195	ESU			
13. SGT Matthew Pereira	04497	944885	NARCBBX			
Officer(s)	Allegati	on		Ir	vestigator Reco	nmendation
A.DT3 Ruben Alvarez	Force: A Ruben A	t § 87(2)(b) Alvarez used physical for	in the Bronx, Detectorce against § 87(2)(b)	tive		
B.DT3 Edgar Clases	Force: A Edgar C	t <sup>§ 87(2)(b)</sup> lases used physical force	in the Bronx, Detecte against § 87(2)(b)	tive		
C. Officers	Force: A physical	t <sup>§ 87(2)(b)</sup> force against <sup>§ 87(2)(b)</sup>	in the Bronx, office	rs used		
D. Officers	Force: A physical	t § 87(2)(b) force against § 87(2)(b)	in the Bronx, office	rs used		

Officer(s)	Allegation	Investigator Recommendation
E.DT3 Ruben Alvarez	Force: At \$\frac{8.87(2)(b)}{2}\$ in the Bronx, Detective Ruben Alvarez used a chokehold against \$\frac{8.87(2)(b)}{2}\$	
F.DT3 Ruben Alvarez	Force: At \$87(2)(b) in the Bronx, Detective Ruben Alvarez restricted \$87(2)(b) s breathing.	
G. An officer	Discourtesy: At § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)	
H. An officer	Force: At \$87(2)(b) in the Bronx, an officer used physical force against \$87(2)(b)	
I. Officers	Abuse: At \$87(2)(b) in the Bronx, officers did not obtain medical treatment for \$87(2)(b)	
J.DT3 Ruben Alvarez	Abuse: At the 40th Precinct Stationhouse in the Bronx, Detective Ruben Alvarez strip-searched §87(2)(b)	

## **Case Summary**

On January 23, 2021, \$87(2)(6) filed this complaint online via the CCRB's website. On January 22, 2021, at approximately 8:30 PM, outside \$87(2)(6) in the Bronx, § 87(2)(b) was arrested for obstructing governmental administration (OGA) by Det. Reuben Alvarez of Narcotic Borough Bronx, Det. Alvarez, Det. Edgar Clases of Narcotics Borough Bronx, and unknown PSA7 officers forcibly took \$872(b) to the ground (Allegation A-C: Force – s 87(2)(g) ). While restraining him on the ground, the officers allegedly kicked and punched same repeatedly (Allegation D: Force ). Det. Alvarez also allegedly placed in a chokehold, causing his breathing to be restricted (Allegations E and F: Force – ). During this time, one of the officers used profanity against \$37(2)(5) (Allegation G: Discourtesy - \$ 87(2)(g) Once handcuffed and raised to his feet, officer allegedly punched \$87(2)(6) striking him repeatedly in the forehead (Allegation H: Force - \$87(2)(g) allegedly made multiple requests for medical attention at the scene but receive no care while in police custody (Allegation I: Abuse of Authority - \$87(2)(g) ). Upon being removed to the 40<sup>th</sup> Precinct Stationhouse, Det. Alvarez strip-searched §87(2)(b) (Allegation J: **Abusive of Authority** – \$87(2)(9) . \$87(2)(6) was charged with OGA and Disorderly Conduct, § 87(2)(b) The investigation obtained Body Worn Camera (BWC) footage of the incident from five uniformed officers at the scene (BR 02-06). **Findings and Recommendations** Allegation (A) Force: At § 87(2)(b) in the Bronx, Detective Ruben Alvarez used physical force against § 87(2)(b) Allegation (B) Force: At \$87(2)(b) in the Bronx, Detective Edgar Clases used physical force against § 87(2)(b) Allegation (C) Force: At \$87(2)(b) in the Bronx, officers used physical force against § 87(2)(b) Allegation (D) Force: At § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b) Allegation (E) Force: At § 87(2)(b) in the Bronx, Detective Ruben Alvarez used a chokehold against § 87(2)(b) Allegation (F) Force: At \$87(2)(b) in the Bronx, Detective Ruben Alvarez restricted § 87(2)(b) s breathing. Allegation (G) Discourtesy: At \$87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b) Allegation (H) Force: At \$87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b) Allegation (I) Abuse of Authority: At §87(2)(b) in the Bronx, officers did not obtain medical treatment for § 87(2)(6) The following principal facts are undisputed. On January 22, 2021, at approximately 8:30 PM, Narcotics Borough Bronx personnel concluded a buy-bust operation they had executed earlier in the vicinity of \$87(2)(b) leading to the arrest of \$87(2)(b) brother \$87(2)(b)

an unidentified individual. Det. Alvarez and Det. Edgar Clases, who were assigned to the unmarked prisoner van, secured the individuals in the rear of their vehicle, and returned to their seats at the front, with Det. Alvarez in the driver's seat and Det. Clases in the front passenger seat. The officers

remained at the location inside the prisoner van. At this time, having just heard that his brother was one of the two individuals who had been arrested, \$87(2)(b) approached the prisoner van. When he reached the front passenger-side door, the van began to gradually turn onto the street. \$87(2)(b) knocked on the window of the front passenger-door, at least once. At issue here is what transpired immediately thereafter between the officers and \$87(2)(b)

stated that he approached the prisoner van with the intention of communicating with the two officers inside – Det. Alvarez and Det. Clases – and get more information about his brother's arrest (BR 08). However, when he tried to speak to Det. Clases through the closed window, neither officer expressly acknowledged his presence. The van instead began to turn away from the curb and into the street. §87(2)(b) stated that he tapped on the window exactly once with his knuckles, with the hope they would stop moving, without saying or doing anything hostile. But as soon as did so, Det. Alvarez and Det. Clases halted and exited the van. They first flanked \$87(2)(6) and asked him what he was trying to do. Before he could explain himself, Det. Alvarez and Det. Clases grabbed \$87(2)(b) and took him to the ground. At the same time, other officers in the area arrived and began restraining \$87(2)(b) on the ground. These officers then collectively punched and kicked \$57(2)(6) repeatedly, making contact with his head, face, ribs, and legs, for approximately 15 seconds. As he was being rear-cuffed, Det. Alvarez applied what \$\frac{87(2)(0)}{2} referred to as a chokehold on his neck by hooking his left bicep around his lower neck and upper chest, placing his right arm and elbow against the back of his head, and then using his left arm to "squeeze" his windpipe for approximately 15 seconds. When \$87(2)(6) told Det. Alvarez that he could not breath, Det. Alvarez stated that he would not be able to vocalize if his breathing was restricted.

Once handcuffed, \$\frac{\$\structure{\$\stru

The investigation obtained testimony from Det. Alvarez and Det. Clases (BR 09, 10), as well as Sgt. Perriera (BR 11) their immediate supervisor, and Det. Masiel Pages (BR12), the arresting officer, all of Narcotics Borough Bronx. Additionally, the investigation interviewed PO Uribe and PO Vasquez (BR 13, 14) of PSA7 who became involved in the incident while working their assigned posts in the general area. All of the interviewed officers were uniformly consistent about what precipitated the encounter and how the arrest unfolded. They provided consistent accounts that \$\frac{887(2)(6)}{2}\$ suddenly approached and started forcefully banging on the prisoner van window, that he was combative when approached and actively resisted arrest, and that aside from officers taking him down to the ground, no additional force was used. Neither Det. Pages nor Sgt. Perriera heard officers use any profanities against \$\frac{887(2)(6)}{2}\$ while arresting him.

Det. Alvarez and Det. Clases stated that they were about to depart the scene with the two individuals they had arrested, when suddenly appeared outside Det. Clases's passenger-side window and started striking it with a closed fist. Det. Alvarez and Det. Clases both stated that repeatedly hit the window, that he was yelling and appeared to be highly irate; neither knew what he wanted.

Det. Alvarez and Det. Clases were not certain about whether they were already in motion at the time, and both stated that did not actually put himself in front of the vehicle.

Nonetheless, they stated that constituted an interference with their primary duty—prisoner security and transportation. Det. Alvarez and Det Clases both stated that it was the PSA7 uniformed officers nearby who first interceded and contacted by the time Det. Alvarez and Det. Clases exited, the PSA7 officers were already in a struggle with struck who in turn was being physically belligerent—swinging punches at the officers and refusing to surrender himself for handcuffing.

Det. Alvarez said he joined the uniformed officers — he did not recall how many were involved and knew none by name — in restraining strength — The officers were initially unable to grab a hold of strength as he was swinging at them with both fists (he didn't recall if any made contact). Eventually, within a short period of time — he could not approximate how long — officers forcibly took strength to the ground. Det. Alvarez stated that while he was involved in the takedown, it was a collective effort between him and the other officers. strength was still attempting to throw punches at the officers while on the ground, until Det. Alvarez managed to secure handcuffs around his wrists. Det. Alvarez denied making any contact with strength swindpipe, neck or upper chest at any point and denied applying a chokehold or using any similar maneuver. At no point did strength express that he could not breathe. Once officers handcuffed and raised up, Det. Alvarez saw no visible injuries on him. Det. Alvarez never heard strength used profanity while restraining strength. He did not recall if any officers including himself used profanity while restraining strength.

Det. Clases stated that did not recall what was happening between the officers and \$\frac{87(2)(b)}{2}\$ as he exited the van. Det. Clases stated that \$\frac{87(2)(b)}{2}\$ was ultimately taken down by a group of officers, but he did not recall if he made physical contact with him or if he was involved in forcibly taking \$\frac{87(2)(b)}{2}\$ but said he observed him resisting on the ground while officers were trying to restrain and handcuff him. He could not identify which officers or how many officers were involved. Det. Clases did not see officers punching, striking, or kicking \$\frac{87(2)(b)}{2}\$ at any point, and denied doing so. Det. Clases did not see any officer apply any type of pressure to \$\frac{87(2)(b)}{2}\$ say he could not breathe. Det. Clases never heard \$\frac{87(2)(b)}{2}\$ request medical attention.

Sgt. Periera's and Det. Pages's statements (BR 11, 12) were largely consistent with Det. Alvarez and Det. Clases. While Sgt. Perriera acknowledged assisting the other officers restrain sarable on the ground, he could not identify any of the other officers involved, besides Det. Alvarez and Det. Clases. Sgt. Perriera denied witnessing or partaking in any of the alleged force allegations, as did Det. Pages, who had no contact with sarable of the sarable

PO Uribe (BR13) and PO Vasquez (BR 14) also provided statements consistent with the above officers. The BWC established PO Uribe as the only identified PSA7 officers who directly engaged Besides confirming the grappling and pushing visible on the video, PO Uribe could not elaborate on what, if any, additional actions were taken against during the arrest: he did not recall how the officers restrained and handcuffed (ST(2)(6)) or if he was taken to the ground during this process and could not approximate the number of officers in physical contact or close proximity to (ST(2)(6))

Sgt. Periera, Det. Page, and PO Vasquez denied using profanity against \$\sqrt{87(2)(6)}\$ or hearing him request medical attention. In sum, based on the testimonial and BWC evidence, the investigation

was unable to identify the other officers who were involved in \$87(2)(6) s arrest.

Based on the NYPD's BWC deployment calendar, and the officer's interview statements, the investigation confirmed that Narcotics Borough Bronx had not been assigned BWCs at the time of the incident. Moreover, of the five relevant BWCs produced by the NYPD (BR02-BR06), only PO Uribe's BWC captured the physical dynamic between \$87(2)(6) and the officers during the arrest.

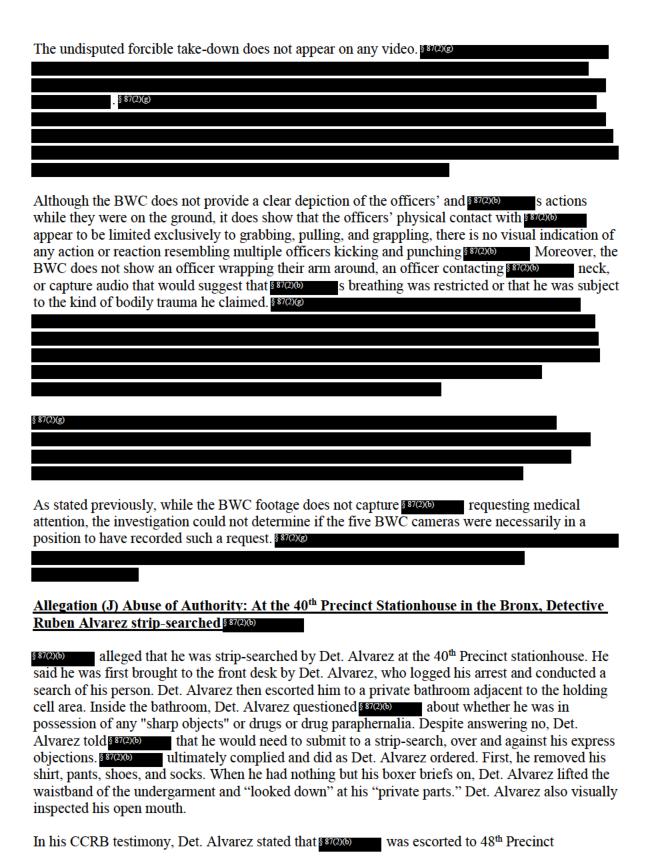
PO Uribe's BWC footage (BR 02) begins with him running up to the prisoner van as \$87(2)(6) (who is wearing a blue jacket) appears to be standing immediately outside the front passenger-side door (00:42). At 00:43, PO Uribe grabs \$87(2)(6) s shoulders from the rear. Simultaneously, an unidentified officer appears to engage \$87(2)(b) frontside. Between 00:48 and 00:52, officers and appears to have moved to the sidewalk. Multiple officers then appear to be attempting to seize his arms. PO Uribe appears to be very involved in these motions; from this point onwards, his BWC is too close to \$87(2)(6) s body, causing the view frame to be continually obstructed as a result. As audio is captured at 1:00, PO Uribe's BWC becomes obstructed until 1:06. It appears that the officers are struggling with \$87(2)(b) but it is unclear what is exactly happening. At 1:10, PO Uribe appears to lower himself down, possibly kneeling over what appears to be a struggle on the ground. When \$87(2)(b) states at 1:11, "I'm not resisting," PO Uribe's flashlight briefly beams to show him either kneeling or standing over him while trying to get a hold of his wrists. Between 1:19 and 1:30, a male speaker repeatedly states, "Give me your fucking hands" and "Give him your fucking hands." Because PO Uribe's BWC is now partially obstructed by his own jacket, the only discernible images and actions are those of \$87(2)(b) s wrists being handcuffed by an unknown officer. At 1:33, a voice seemingly identical to the earlier speaker using profanity states, "You're gonna hit a police car like that, are you stupid?" At 1:41, \$87(2)(6) acknowledged banging on the window. § 87(2)(b) is then raised to his feet. Significant shaking caused by camera motion makes it difficult to see and/or identify the officers immediately around 887(2)(b) Between 1:45 and 2:00 in the footage, \$57(2)(5) is escorted into the rear of the nearby prisoner van by several plainclothes officers. Uniformed officers including PO Uribe appear to stand back and maintain crowd control as bystanders surround the scene.

While all of the interviewed officers were shown the BWC footage segment in which the profanity was documented, none had an independent recollection of the discourtesies, and none could identify the speaker (BR 09-14).

The other four BWC videos shows that PO Michael Edwards, PO Gabriela Navarro, PO Rafael Rispoli, and PO Bolivar Vasquez did not participate in the arrest of Additionally, none of their BWCs captures the officers' actions once they were on the ground with ST(2)(b) after he was stood up, or requesting medical attention. However, it is also unclear whether any of these officers were within earshot of ST(2)(b) at the time he made the verbal allegations (BR 03-06).

s arrest report narrative is entirely consistent with the officers' statements (BR 01). An Investigating Supervisor Assessment Report (ISAR), prepared by Duty Captain James Hynes in reference to Det. Alvarez's forcible take-down, did not document any additional use of force against \$87(2)(6) (BR 15).

Per NYPD Patrol Guide (P.G.) Procedure 221-01/02, force may be used by an officer when it is reasonable to ensure the safety of another officer or third party, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. All use of force must be objectively reasonable under the circumstances (BR 20).



stationhouse where Det. Alvarez was responsible for safely securing and lodging the arrested prisoners. When asked to elaborate on the safety checks conducted, Det. Alvarez stated that, per general protocol, a secondary and thorough search of the prisoners' person was conducted in the holding area, specifically inside a large bathroom. Det. Alvarez stated that he must have conducted this safety check on one or more of the prisoners in question but did not recall if he specifically did so with \$87000

Det. Alvarez did not recall conducting anything resembling a strip search at the stationhouse, with or with any of the other prisoners. He stated that a strip search would not be conducted unless specifically authorized by a supervisor and he did not recall there being a need to do so with and the others. Det. Alvarez did not recall if he exposed skin, either intentionally or otherwise, at any point during the search of his person in the bathroom or inspecting his undergarments or doing anything else beyond what he considered as the standard search protocols of lodging a prisoner – removing shoelaces, confiscating sharp objects etc. Det. Alvarez stated that the holding area adjoined the arrest processing room where computers were located. He did not recall having any interactions with Det. Pages, and he did not recall who the Desk Sergeant was at the time. Regarding his memo book notation about being interviewed by a Duty Captain, Det. Alvarez assumed that it must have been in regards to sarrest; he recalled no further details.

When asked if was strip searched at the stationhouse or if there was any cause to engage in any such exploratory search, Det. Pages stated, "I'm not sure if he was strip searched or not that would be a supervisor's decision." Regarding her activities at the stationhouse from the time of her return till the end of her tour, Det. Pages stated that she returned with the prisoners at approximately 8:55 AM and ultimately ended her tour at 3:00 AM. When asked to account for what specifically she attended to during the six-hour interval, Det. Pages stated that she was performing arrest processing tasks but could not be more specific.

While the strip search is not documented in the command log (BR 16), or in any officers' memo books (BR 17), the arrest report shows that one was in fact conducted (BR 01).

Per NYPD Patrol Guide Procedure 208-05: "A search at a police facility, which is not the same as a "strip search," includes the removal of outer garments (e.g., overcoats, jackets, sweaters, vests, hats, wigs, ties, belts, shoelaces, drawstrings, shoes, socks, handbags, wallets, etc.)." A strip search is any search in which an individual's undergarments and/or private areas are exposed or in which an individual's clothes is removed, lifted up, or pulled down to expose undergarments or private areas. A strip search may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods (BR 21).

§ 87(2)(g)
In
his statement, ssr@@ provided a detailed account of what Det. Alvarez asked him to remove
and what he did during the strip-search. Moreover, this was supported by the arrest report which
affirmed a strip-search was conducted. Det. Alvarez and Det. Pages both stated that they did not
recall whether was strip-searched and during his interview, Det. Alvarez's equivocation
on the subject of the strip-search raises doubts about his veracity. Det. Pages account at the
stationhouse was limited to "arrest processing" with no additional recollection of what occurred.
Det. Alvarez strip-searched \$87(2)(b) and neither Det. Pages nor Det. Alvarez
provided a reason for the need to strip-strip search \$87(2)(6)

## **Civilian and Officer CCRB Histories**

- § 87(2)(b)
- Det. Alvarez has been a member of service for 11 and has been a subject in nine prior CCRB complaints and 23 allegations, of which two were substantiated.:
  - Case number 201603275 involved substantiated allegations of Stop and Retaliatory Arrest against Det. Alverez. The Board recommended Formalized Training and the NYPD concurred. §\$7000
- Det. Clases has been a member of service for 17 years and has been a subject in 14 prior CCRB complaints and 41 allegations, of which seven were substantiated:
  - Case number 200911584 involved a substantiated allegation of Offensive Language Race against Det. Clases. The Board recommended Command Discipline B and the NYPD imposed the same discipline.
  - Case number 201010966 involved substantiated allegations of Stop, Frisk, Threat of Force, and Vehicle Search against Det. Clases. The Board recommended Charges and the NYPD imposed a loss of 45 vacation days.
  - O Case number 201310243 involved substantiated Stop and Search allegations against Det. Clases. The Board recommended Instructions and the NYPD has not yet imposed discipline.

## Mediation, Civil, and Criminal Histories

- §87(2)(b) declined to mediate this complaint.
- On June 3, 2022, a Notice of Claim query was submitted to the NYC Office of the Comptroller. Results will be added to the case file upon receipt.

§ 87(2)(0)			
Squad:16			
Investigator: /sprakash	l	Inv. Santosh Prakash	6/8/22
Sign	ature	Print Title & Name	Date
Squad Leader: Patrick Yu		IM Patrick Yu	06/08/2022
-	ature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date